



State of California
Employment Training Panel

Arnold Schwarzenegger, Governor

August 6, 2010

Telaireus K. Herrin
Human Resources Manager
Edwards Lifesciences, LLC.
One Edwards Way
Irvine, CA. 92614

Dear Mr. Herrin:

Enclosed is our final audit report relative to the Employment Training Panel Agreement No. ET05-0312 for the period May 30, 2005 through May 29, 2007.

We did not receive a response to the draft audit report; therefore, our findings and recommendations remain unchanged.

Also enclosed is a demand letter for payment of costs disallowed in the audit report. Payment is due upon receipt of this letter. If you wish to appeal the audit findings, you must follow the procedure specified in Attachment A to the audit report.

We appreciate the courtesy and cooperation extended to our auditor during the audit. If you have any questions, please contact Stephen Runkle, Audit Manager, at (916) 327-4758.

Sincerely,

Original signed by
Stephen Runkle
Audit Manager

Enclosures

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EDWARDS LIFESCIENCES, LLC.

ET05-0312

Final Audit Report

For The Period

May 30, 2005 through May 29, 2007

Report Published August 6, 2010

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AUDITOR'S REPORT

Summary

We performed an audit of Edwards Lifesciences, LLC's compliance with Agreement No. ET05-0312 for the period May 30, 2005 through May 29, 2007. Our audit pertained to training costs claimed by the Contractor under this Agreement. Our audit was performed during the period December 8, 2008 through December 12, 2008, except for Finding No. 2 for which our report is dated September 18, 2009.

The Employment Training Panel (ETP) reimbursed the Contractor a total of \$848,184.43. Our audit supported \$840,833.43 is allowable. The balance of \$7,351 is disallowed must be returned to ETP. The disallowed costs resulted from 12 trainees with unsupported class/lab training hours, 2 trainees who did not meet the minimum wage requirements, and 3 trainees who were not employed in an eligible occupation. We also noted an administrative finding for inaccurate reporting of trainee wage rates.

AUDITOR'S REPORT (continued)

Background

Headquartered in Irvine, Edwards Lifesciences LLC (Edwards) is a medical device company that is focused on the creation of advanced cardiovascular disease treatments.

This Agreement is the first between Edwards and ETP. During development of this training project, Edwards showed that its workers, who are employed in the production of advanced medical devices, such as Surgical Heart Valves and Peripheral Vascular Stents, must possess very specific skill sets along with the ability to work in a team oriented environment. Thus, they not only needed the ability to perform a highly repetitive job with exacting quality requirements but also require a high level of communication and interpersonal skills. Therefore, the Agreement provided for training in Business Skills, Computer Skills, and Continuous Improvement, as well as Manufacturing and Management Skills.

This Agreement allowed Edwards to receive a maximum reimbursement of \$1,224,500 for retraining 500 employees. During the Agreement term, the Contractor placed 385 retrainees and was reimbursed \$848,184.43 by ETP.

Objectives, Scope, and Methodology

We performed our audit in accordance with *Government Auditing Standards*, promulgated by the United States General Accounting Office. We did not audit the financial statements of Edwards Lifesciences, LLC. Our audit scope was limited to planning and performing audit procedures to obtain reasonable assurance that Edwards Lifesciences, LLC., complied with the terms of the Agreement and the applicable provisions of the California Unemployment Insurance Code.

Accordingly, we reviewed, tested, and analyzed the Contractor's documentation supporting training cost reimbursements. Our audit scope included, but was not limited to, conducting compliance tests to determine whether:

- Trainees were eligible to receive ETP training.
- Training documentation supports that trainees received the training hours reimbursed by ETP and met the minimum training hours identified in the Agreement.

AUDITOR'S REPORT (continued)

- Trainees were employed continuously full-time with Edwards Lifesciences, LLC. for 90 consecutive days after completing training, and the 90-day retention period was completed within the Agreement term.
- Trainees were employed in the occupation for which they were trained and earned the minimum wage required at the end of the 90-day retention period.
- The Contractor's cash receipts agree with ETP cash disbursement records.

As part of our audit, we reviewed and obtained an understanding of the Contractor's management controls as required by *Government Auditing Standards*. The purpose of our review was to determine the nature, timing, and extent of our audit tests of training costs claimed. Our review was limited to the Contractor's procedures for documenting training hours provided and ensuring compliance with all Agreement terms, because it would have been inefficient to evaluate the effectiveness of management controls as a whole.

Conclusion

As summarized in Schedule 1, the Summary of Audit Results, and discussed more fully in the Findings and Recommendations Section of our report, our audit supported \$840,833.43 of the \$848,184.43 paid to the Contractor under this Agreement is allowable. The balance of \$7,351 is disallowed and must be returned to ETP.

Views of Responsible Officials

The audit findings were discussed with Telaireus K. Herrin, Human Resources Manager, at an exit conference held on December 12, 2008. A draft audit report was issued to the Contractor on July 14, 2010. The Contractor indicated on August 4, 2010 that Edwards did not intend to respond in writing to the draft audit report and would accept issuance of the final audit report.

The issuance of your final audit report had been delayed by the audit unit. Therefore, ETP waived the accrual of interest for the disallowed costs beginning December 13, 2008 through the issue date of this final audit report. The interest waiver (adjustment) was \$648.58, which was deducted from the total accrued interest.

Audit Appeal Rights

If you wish to appeal the audit findings, it must be filed in writing with the Panel's Executive Director within 30 days of receipt of this audit report. The proper appeal procedure is specified in Title 22, California Code of Regulations, Section 4450 (attached).

AUDITOR'S REPORT (continued)

Records Please note the ETP Agreement, Paragraph 5, requires you to assure ETP or its representative has the right, "...to examine, reproduce, monitor and audit accounting source payroll documents, and all other records, books, papers, documents or other evidence directly related to the performance of this Agreement by the Contractor... This right will terminate no sooner than four (4) years from the date of termination of the Agreement or three (3) years from the date of the last payment from ETP to the Contractor, or the date of resolution of appeals, audits, or litigation, whichever is later."

Stephen Runkle
Audit Manager

Fieldwork Completion Date: December 12, 2008, except for Finding No. 2 for which our report is dated September 18, 2009.

This report is a matter of public record and its distribution is not limited. The report is intended for use in conjunction with the administration of ETP Agreement No. ET05-0312 and should not be used for any other purpose.

SCHEDULE 1 – Summary of Audit Results

EDWARDS LIFESCIENCES, LLC.

AGREEMENT NO. ET05-0312
FOR THE PERIOD
MAY 30, 2005 THROUGH MAY 29, 2007

| | <u>Amount</u> | <u>Reference*</u> |
|---|-----------------------------|-------------------|
| Training Costs Paid By ETP | <u>\$ 848,184.43</u> | |
| Costs Disallowed: | | |
| Unsupported Class/Lab Training Hours | 3,661.00 | Finding No. 1 |
| Minimum Wage Requirement Not Met | 2,817.00 | Finding No. 2 |
| Ineligible Trainee Occupation | 873.00 | Finding No. 3 |
| Inaccurate Reporting | - | Finding No. 4 |
| Totals | | |
| Total Costs Disallowed | <u>\$ 7,351.00</u> | |
| Training Costs Allowed | <u><u>\$ 840,833.43</u></u> | |

* See Findings and Recommendations Section.

FINDINGS AND RECOMMENDATIONS

FINDING NO. 1 – Training records maintained by Edwards Lifesciences, LLC
Unsupported (Edwards) do not support paid training hours for 12 trainees.
Class/Lab Training Therefore, we disallowed \$3,661 in unsupported training costs
Hours claimed for these trainees.

Title 22 California Code of Regulations (CCR), Section 4442(a) requires the Contractor to maintain and make available records that clearly document all aspects of training. All classroom/laboratory training records must include hours of attendance and dates of training, be certified daily by the instructor during training, signed (or initialed) daily by the trainee, and signed by the trainer for each type of training.

Paragraph 2(b) of the Agreement between Edwards and ETP states: “Reimbursement for class/lab and videoconference training for trainees in job number 1 will be based on the total actual number of training hours completed by training delivery method for each trainee, up to the maximum specified in Chart 1, providing the minimum and no more than the maximum hours are met.” Exhibit A, Chart 1 of the Agreement requires that Job Nos. 1 trainees complete between 24 to 390 class/lab hours. This critical proposal also provided for a negotiated classroom/laboratory reimbursement rate of \$15.60 per hour.

Exhibit A, Paragraph VI. A. of the Agreement states, “Contractor shall provide training pursuant to the Curriculum in Exhibit B.” Exhibit B of the Agreement does not include “Sales Meetings” as training approved for reimbursement by ETP.

ETP auditors found that original class/lab rosters maintained by Edwards do not support reported training hours for 6 of the trainees noted above due to the submission in error of duplicate training hours recorded on duplicate rosters and for a trainee lined-out on an original roster for which class/lab hours were still submitted for reimbursement.

Finding No. 1 (Table A) included on the next page details the training hours not supported by training records, audited hours and disallowed costs for 6 trainees noted above.

FINDINGS AND RECOMMENDATIONS (continued)

| Trainee No. | Job No. | Paid Hours | Hours not Supported by Training Records | Audited Hours | Disallowed Costs | Code |
|---|---------|------------|---|---------------|------------------|------|
| 3 | 1 | 25.75 | 4.00 | 21.75 | \$401 | A |
| 4 | 1 | 84.25 | 8.00 | 76.25 | \$124 | A |
| 5 | 1 | 73.75 | 8.00 | 65.75 | \$124 | A |
| 8 | 1 | 69.00 | 8.00 | 61.00 | \$124 | B |
| 9 | 1 | 64.00 | 8.00 | 56.00 | \$124 | A |
| 12 | 1 | 48.00 | 8.00 | 40.00 | \$124 | A |
| Total | | | | | \$1,021 | |
| Legend | | | | | | |
| A - Training Hours for Duplicate Roster(s) Submitted in Error | | | | | | |
| B - Trainee Lined-out on an Original Roster | | | | | | |
| Note: | | | | | | |
| Trainee No. 3 below minimum required training hours for Job No. 1 | | | | | | |

ETP auditors also found that original class/lab rosters maintained by Edwards showed that training hours reported for 6 of these trainees were not included in the curriculum approved by ETP and included in Exhibit B of the Agreement. These training records include ineligible training documented as "America Sales Meeting" for which class/lab hours were submitted for reimbursement in error

Finding No. 1 (Table B) included below details the ineligible training course hours, audited hours and disallowed costs for 6 trainees noted above.

| Trainee No. | Job No. | Paid Hours | Ineligible Training Course Hours | Audited Hours | Disallowed Costs | Code |
|--|---------|------------|----------------------------------|---------------|------------------|------|
| 2 | 1 | 104.00 | 28.00 | 76.00 | \$436 | C |
| 6 | 1 | 28.00 | 28.00 | 0.00 | \$436 | C |
| 10 | 1 | 29.50 | 29.50 | 0.00 | \$460 | C |
| 11 | 1 | 28.00 | 28.00 | 0.00 | \$436 | C |
| 14 | 1 | 28.00 | 28.00 | 0.00 | \$436 | C |
| 15 | 1 | 28.00 | 28.00 | 0.00 | \$436 | C |
| Total | | | | | \$2,640 | |
| Legend | | | | | | |
| C - Ineligible Training - "North America Sales Meeting" Submitted in Error | | | | | | |

FINDINGS AND RECOMMENDATIONS (continued)

Recommendation Edwards must return \$3,661 to ETP. In the future, the Contractor should ensure that training records support hours submitted for reimbursement from ETP.

FINDINGS AND RECOMMENDATIONS (continued)

FINDING NO. 2 – Edwards received reimbursement for the training costs of two Minimum Wage Requirement Not Met trainees who did not meet the minimum wage requirement specified in the Agreement. Therefore, we have disallowed \$2,817 in training costs paid for these trainees.

Exhibit A, Paragraph VI. A. of the Agreement states, “Each trainee must be employed full-time... for a period of at least ninety (90) consecutive days immediately following the completion of training... Wages at the end of the 90-day retention period shall be equal to or greater than the wages listed in [the Agreement].”

The Agreement required that Job No. 1 trainees employed in Orange County earn a minimum wage rate of \$12.37 per hour following the post-training retention period. The Agreement allowed the Contractor to include the dollar value of employer-paid health benefits to meet minimum wage requirements. However, ETP auditor found that Trainee No. 1 and 13 were placed due to the inclusion of the misreported amount of \$3.14 per hour of employer-paid benefits for each trainee. Overall, Edwards reported this same per hour amount of health benefits for 356 placed trainees.

Finding No. 2 (Table A) included below shows the wage reported by Edwards including employer-paid health benefits, required wage rate, wage per Edwards’ payroll records, and actual employer-paid health benefits paid verified per information provided by Edwards.

| Trainee No. | Job No. | Reported Wage Rate with Health Benefits | Required Wage Rate | Regular Wage Rate Per Employer Responses | Actual Employer-Paid Health Benefits | Total Actual Wage Rate |
|-------------|---------|---|--------------------|--|--------------------------------------|------------------------|
| 1 | 1 | \$13.97 | \$12.37 | \$10.83 | \$0.20 | \$11.03 |
| 13 | 1 | \$12.87 | \$12.37 | \$9.73 | \$1.56 | \$11.29 |

Recommendation Edwards must return \$2,817 to ETP. In the future, the Contractor should verify and report accurate employer-paid health benefit costs paid per trainee to ensure trainees meet the minimum wage rate requirements prior to claiming reimbursement from ETP.

FINDINGS AND RECOMMENDATIONS (continued)

FINDING NO. 3 – Edwards claimed reimbursement for three trainees who were not
Ineligible Trainee employed in occupations specified in the Agreement. We
Occupation previously disallowed \$872 in training costs claimed for Trainee
Nos. 6 and 15 in Finding No. 1. Thus, we disallowed the remaining
\$873 in unsupported training costs claimed for these trainees.

Exhibit A, Section VII. A. of the Agreement between Edwards and ETP states: “Employment for each trainee shall be in occupations listed in Chart 1, Column 2 [of the Agreement] . . .” The occupations identified in the Agreement for Job No. 1 include only Production Operators, Technicians, Administrative Staff, Planners, Engineers and Managers.

Finding No. 3 (Table A) included below shows the job title during retention, as provided by Edwards, for the three trainees.

| Trainee No. | Job No. | Job Title |
|-------------|---------|--------------------------|
| 6 | 1 | Sales Representative III |
| 7 | 1 | Sales Representative III |
| 15 | 1 | Sales Representative I |

Recommendation Edwards must return \$873 to ETP. In the future, the Contractor should ensure all trainees are employed in the occupations specified in the Agreement prior to claiming reimbursement from ETP.

FINDINGS AND RECOMMENDATIONS (continued)

FINDING NO. 4 – Trainee hourly wage rates reported by Edwards on invoices
Inaccurate Wage submitted to ETP were inaccurate. As a result, the Contractor did
Reporting not comply with Agreement reporting requirements.

Paragraph 2(d) of the Agreement states, “Contractor shall submit invoices and necessary statistical data to ETP in a form and manner prescribed by ETP.” Actual, complete trainee wage rate information is required to verify compliance with Exhibit A, Paragraph VII. A. of the Agreement. This section states, “Each trainee must be employed full time... for a period of at least ninety (90) consecutive days immediately following the completion of training... Wages at the end of the 90-day retention period shall be equal to or greater than the wages listed in [the Agreement].”

We documented actual trainee wage rates based on payroll documents provided by Edwards for 39 initial random sample trainees. Trainee wage rates reported by Edwards varied by 5 percent or more from actual wage rates for 14 of the 39 trainees (36 percent).

Recommendation In the future, Edwards should ensure all trainee wage rate data submitted to ETP is accurate and complete. Inaccurate or incomplete data may result in repayment of unearned funds, plus applicable interest, to ETP.

ATTACHMENT A – Appeal Process

4450. Appeal Process.

- (a) An interested person may appeal any final adverse decision made on behalf of the Panel where said decision is communicated in writing. Appeals must be submitted in writing to the Executive Director at the Employment Training Panel in Sacramento.
- (b) There are two levels of appeal before the Panel. The first level must be exhausted before proceeding to the second.
 - (1) The first level of appeal is to the Executive Director, and must be submitted within 30 days of receipt of the final adverse decision. This appeal will not be accepted by the Executive Director unless it includes a statement setting forth the issues and facts in dispute. Any documents or other writings that support the appeal should be forwarded with this statement. The Executive Director will issue a written determination within 60 days of receiving said appeal.
 - (2) The second level of appeal is to the Panel, and must be submitted within 10 days of receipt of the Executive Director's determination. This appeal should include a statement setting forth the appellant's argument as to why that determination should be reversed by the Panel, and forwarding any supporting documents or other writings that were not provided at the first level of appeal to the Executive Director. If the Panel accepts the appeal and chooses to conduct a hearing, it may accept sworn witness testimony on the record.
 - (A) The Panel must take one of the following actions within 45 days of receipt of a second-level appeal:
 - (1) Refuse to hear the matter, giving the appellant written reasons for the denial; or
 - (2) Conduct a hearing on a regularly-scheduled meeting date; or
 - (3) Delegate the authority to conduct a hearing to a subcommittee of one or more Panel members, or to an Administrative Law Judge with the Office of Administrative Hearings.
 - (B) The Panel or its designee may take action to adopt any of the administrative adjudication provisions of the Administrative Procedures Act at Government Code Section 11370 *et seq.*, for the purpose of formulating and issuing its decision. Said action may take place at the hearing, or in preliminary proceedings.
 - (C) Upon completion of the hearing, the record will be closed and the Panel will issue a final ruling. The ruling may be based on a recommendation from the hearing designee. The ruling shall be issued in a writing served simultaneously on the appellant and ETP, within 60 days of the record closure.
- (c) The time limits specified above may be adjusted or extended by the Executive Director or the Panel Chairman for good cause, pertinent to the level of appeal.
- (d) Following receipt of the Panel's ruling, the appellant may petition for judicial review in Superior Court pursuant to Code of Civil Procedure Section 1094.5. This petition must be filed within 60 days from receipt of the Panel's ruling.

Authority: Section 10205(m), Unemployment Insurance Code; Section 11410.40, Government Code.

Reference: Sections 10205(k), 10207, Unemployment Insurance Code.

Effective: April 15, 1995

Amended: December 30, 2006